

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 509 – HB 570

March 8, 2011

SUMMARY OF AMENDMENT (004670): Deletes the original bill. Authorizes courts to assess all court costs, filing fees, litigation taxes, and attorney fees against a petitioner seeking an order of protection if the court does not issue or extend an order of protection and conducts two separate hearings from the hearing on the petition at which it is determined that the petition was filed frivolously, the petitioner is not a victim of domestic abuse, stalking, or sexual assault, and the refusal to issue or extend an order was based on such fact and not because the petitioner requested the petition to be dismissed, failed to attend the hearing or incorrectly filled out the petition.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$2,300/General Fund
\$4,800/Dedicated Funds

Increase Local Revenue – \$46,300

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – \$1,800/General Fund
\$3,800/Dedicated Funds

Increase Local Revenue – \$37,000

Assumptions applied to amendment:

- Authorizing the court to conduct two separate hearings in order to determine whether costs can be assessed against the petitioner if an order of protection is not issued or extended will not have a significant impact on the caseloads or adjudicatory processes of the state and local court systems.
- The court clerks will be able to assess court costs, filing fees, litigation taxes and attorney fees against the petitioner for orders of protection filed by non-victims that are dismissed.
- According to the Tennessee Court Clerks Association, under current law courts are not assessing costs against petitioners for orders of protections that are dismissed or withdrawn.

- Based on the data provided by the Tennessee Court Clerks Association, there are approximately 25,310 orders of protection dismissed or withdrawn each year. It is estimated that 40 percent, or 10,124, of these dismissed or withdrawn orders will be by petitioners who are found not to be a victim and not because the petitioner requested the petition to be dismissed, failed to attend the hearing or incorrectly filled out the petition.
- Of the 10,124 dismissed orders, it is estimated that five percent, or 506 will be found to have been filed frivolously.
- Total costs associated with orders of protection are estimated to be \$179.50 per order filed. Of this amount, \$23.75 is the state privilege tax on litigation, leaving \$155.75 in county costs and fees.
- According to the Fiscal Review Staff Report on Uncollected Criminal Case Fines, Costs, and Litigation Taxes (September, 2008), 47 percent of costs are recoverable. The remaining 53 percent is assessed against petitioners who are indigent or otherwise unable to pay.
- Local revenue will increase by approximately \$37,040 ($506 \times \$155.75 \times 47\%$).
- State revenue is estimated to increase approximately \$5,648 ($506 \times \$23.75 \times 47\%$).
- The state privilege tax revenue (\$5,648) is earmarked to the general fund and other dedicated funds as follows:
 - \$1,816 (32.1502%) to the General Fund
 - \$2 (.032%) to the Tennessee Corrections Institute
 - \$188 (75% of 4.443%) to the Department of Education
 - \$63 (25% of 4.443%) to the Department of Safety
 - \$37 (.6553%) to the State Court Clerks Conference
 - \$47 (.8406%) to the Victims of Crime Assistance Fund
 - \$1,356 (24.002%) to the Criminal Injuries Compensation Fund
 - \$78 (1.3755%) to the Victims of Drunk Drivers Compensation
 - \$213 (3.7653%) to the Criminal Indigent Defense Fund
 - \$31 (.5529%) to the Administrative Office of the Courts
 - \$1,090 (19.2902%) to the Public Defender Program
 - \$422 (7.4701%) to the Civil Legal Representation of Indigents
 - \$130 (2.3056%) to the General Fund for Grants to Local Government
 - \$19 (.3426%) to the Sex Offender Treatment Fund
 - \$157 (2.7747%) for Driver Education in Public Schools.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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